

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Changes requested in retail point of sales)
of all over the counter 2 way voice or data) RM-10641
equipment. \ Changes requested in mobile)
& portable ownership & license tagging for:)
parts 5 – 15 – 18 – 74 – 80 – 90 – 95 – 97)

To: The Commission

COMMENTS OF MARK S. SEIDLER
IN RESPONSE TO NOTICE OF PROPOSED RULE MAKING

1. *Introduction.* As a licensed Amateur Radio Operator of nearly ten years I feel that this Proposed Rule Making will affect my future purchases of legal equipment and will also interfere with the transportation and use of same. I am also concerned with how this will affect the private sale and trade of used and homebuilt amateur radio equipment. I appropriately here comment.

2. *Background.* The petition asks for the addition or change of regulation to accommodate the registration of users and transmitting devices across many services sold by retail establishments for a period of not less than three years. This same user registration data will be made available to “local law enforcement”. Retailers will profile customers and report suspicious individuals to local law enforcement. Radio devices will be marked with license information as a “tool” for local law enforcement to regulate and enforce the use of said radio devices.

3. *Discussion.* This petition has failed to state who will be responsible for the burden of installing and maintaining the required infrastructure for collecting and retaining the radio purchaser data for three years. The petitioner has not offered any idea as to who will shoulder the actual costs of this data tracking. I believe these added costs will ultimately fall on the consumer due to increased overhead for the retailer causing sales to drop sharply and ultimately leading to the cessation of legal radio sales by retail establishments.

4. The petition states that the vendor may request police intervention if “he has a suspicious overview that the use of the radios may not be in compliance with Federal or Local laws”. The petition fails to state what will qualify a retail store clerk, for example, to charge that someone is using a particular radio item for an unlawful purpose? I think

it's quite easy to see how this can and probably will be construed as "profiling". In our litigious society this could and possibly will open retailers to prosecution for invasion of privacy, slander, false arrest, discrimination etc. I fail to see how a store clerk would know what the end use of the purchased product would be just by selling the item.

5. As to the matter of identifying radio devices and tagging radio equipment in the second part of Mr. Reich's petition. The method of physically marking or otherwise inscribing a transceiver to identify the owner is not feasible and is an unnecessary measure. The current rules and regulations license users and not radios, this only makes sense because radios cannot transmit without their licensed operator controlling them per (47 CFR 97.7).

6. If these "marked" radios are to be sold at a later date as a used piece of equipment the inscribed ownership would have to be removed to allow the new owner to inscribe said radio equipment. This would suggest that the original markings can be obliterated or removed essentially serving no useful purpose because a stolen radio can be "re-marked" with false information and misrepresented to law enforcement.

7. Furthermore, the FCC in its own regulations states that an amateur radio licensee does not need to carry their license on their person but must be "named" in the ULS (47 CFR 97.5). Mr. Reich clearly failed to describe how local law enforcement agencies will create access infrastructure to access the ULS and verify license status.

8. Local law enforcement may, however, request to check the serial number of radio devices just like any other device electronic or otherwise to determine if said device or item may be stolen because there are state and local laws in place to support such enforcement. I see no reason for local law enforcement to interfere with, or otherwise hamper operation in licensed services, as it is not part of their jurisdictional responsibility to their community and would serve no useful purpose.

9. *Conclusion.* The petition displays flawed and un-researched thinking. It raises questions without giving any feasible answers on the petitioners part, there is no concise telling of what it is Mr. Reich expects to achieve by implementing his "ideas". Further it appears that Mr. Reich expects the Commission to "fill in the blanks", so to speak, rather than formulating a complete action plan for implementation of the proposal. I do not see any benefit from this type of rulemaking and I respectfully OPPOSE this rule change and ask the commission to dismiss this proposed rulemaking known as RM-10641 as frivolous.

Respectfully,

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